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MAR 25 1997

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of )  
 )  
Assessment and Collection ) MD Docket No. 96-186  
of Regulatory Fees for )  
Fiscal Year 1997 )

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To: The Commission

COMMENTS OF GE AMERICAN COMMUNICATIONS, INC.

GE American Communications, Inc. ("GE Americom"), by its attorneys, hereby submits its comments on the proposed satellite regulatory fees in the Commission's Notice of Proposed Rulemaking in the above-captioned docket, FCC 97-49, released March 5, 1997 ("Notice"). In GE Americom's view, the information provided in the Notice is not sufficient to support the level of fees that would be assessed against operating geostationary space stations. Without additional information and further comment, the Commission cannot conclude that the fee burden allocated to in-orbit satellites is equitable.

**BACKGROUND**

In our past filings regarding regulatory fee proceedings, GE Americom has demonstrated that the Commission engages in very little regulatory activity in the four categories mentioned in the applicable statute<sup>1</sup> for satellites once they are

<sup>1</sup> Those categories are enforcement, policy and rulemaking, user information services, and international. See 47 U.S.C. § 159(a).

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launched.<sup>2</sup> The Commission has substantially deregulated satellite services, and most are offered on a noncommon carrier basis, further reducing any regulatory burden on the Commission. Costs related to initial authorization and coordination of spacecraft are recovered through the substantial application fees for spacecraft. Once an application is granted, virtually no Commission regulatory oversight is required during the ten-year license term of a satellite. *See* 1995 Comments at 5-11; 1996 Comments at 1-2.

GE Americom has supported the use of cost accounting measures to identify appropriate levels for regulatory fees. 1996 Comments at 2. However, we have emphasized that in making cost calculations, it is critical for the Commission to accurately distinguish between feeable and non-feeable activities and to break down costs into appropriate fee categories. 1995 Comments at 14-16.

For the first time, the Commission proposes in the Notice here to use the results of the cost accounting system required by the statute in calculating regulatory fees. Notice at ¶ 7.<sup>3</sup> Based on this data, the Commission proposes to increase fees for in-orbit geostationary satellites almost 40% from \$70,575 to \$98,575. This result raises significant questions regarding how the accounting data

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<sup>2</sup> *See, e.g.*, Comments of GE American Communications, Inc., MD Dkt. No. 95-3 (Feb. 14, 1995) (hereinafter, "1995 Comments"); Comments of GE American Communications, Inc., MD Dkt. No. 96-84 (Apr. 29, 1996) (hereinafter, "1996 Comments").

<sup>3</sup> The Commission was unable to use accounting data in setting FY 1996 fees because of problems with the early implementation of the accounting system. See Notice of Proposed Rulemaking, Assessment and Collection of Regulatory Fees for Fiscal Year 1996, FCC 96-153, at ¶¶ 13-17.

were used to develop fees and whether the cost allocations have been made in a manner consistent with the Commission's obligations under the statute.

## DISCUSSION

As an initial matter, the Notice provides virtually no background regarding how the accounting system was designed and implemented. There is no description of what methods were used to ensure that the system properly distinguishes between activities that fall within the four categories identified by statute and those that do not. In fact, Attachment I to the Notice, entitled "Description of FCC Activities," includes a category of procedures relating to "authorization of service." Notice at Attachment I. The Commission acknowledges in a footnote to the Attachment that this type of activity is not feeable for regulatory fee purposes. However, there is no explanation of why this category is nevertheless listed in the exhibit, and no discussion of how the Commission's accounting system separates out and excludes costs relating to such activities from its regulatory fee calculations. Clarification of these matters is necessary for parties to evaluate the Commission's fee proposals.

Second, it is not clear whether costs identified under the accounting procedures as related to geostationary satellites have been properly restricted to regulatory activities for in-orbit spacecraft. As we have stated previously, it is critical that any cost accounting measures be capable of identifying costs to be charged to a particular group of providers with a high level of specificity.

The Notice does not provide information necessary to assess whether the steps taken here were adequate. The Commission observes that it would be impractical to “use small, time-consuming incremental breakouts of work time” in its accounting system. Notice at 7 n.6. That may be, but the Commission must take all steps necessary to ensure that the Congressional purpose of establishing fees that are “reasonably related to the benefits” accruing to the fee-paying party is achieved. 47 U.S.C. § 159(b)(1)(A). Thus, the Commission’s system must be fully capable of distinguishing between regulatory activities that directly concern in-orbit spacecraft and those that relate to other Commission regulatory efforts in the satellite field.

For example, the substantial costs incurred in establishing new services such as Ka-band satellite systems cannot properly be assessed on operators of existing FSS systems. GE Americom should not be required to subsidize Ka-band costs simply because it has a substantial fleet of in-orbit C- and Ku-band spacecraft. Instead, new services costs must be identified and excluded from the amount considered for purposes of setting geostationary satellite fees. Those costs should be eliminated from the Commission’s cost calculations, deferred until such time as they can be charged to operators in the new service, or included as overhead and spread among all regulatory fee categories. There is no justification for charging existing operators with costs related to the development of services that will directly compete with services provided by those operators. Again, the Notice

simply does not provide any evidence to suggest that satellite fee payers are protected from such misallocations.

The Notice is also silent on other issues related to implementation of the accounting system. The Commission does not discuss how the problems that were experienced when the system first went into effect were resolved. Similarly, the Commission mentions in a footnote to Attachment D that certain fee codes for international activities were utilized for only a small portion of FY 1996. The Commission states that adjustments were made to correct the "skewed allocation of costs" that resulted, but does not explain what those adjustments were. Without more information, there is no way for prospective fee payers to evaluate the reasonableness of the Commission's reliance on the accounting system it put into place.

Given the magnitude of the regulatory fees assessed on geostationary satellite operators already, any increase in the fees is appropriate only if it is based on accurate and complete data that properly reflects the statutory criteria. The Commission here has not provided the necessary information to support the new charges it has proposed.

## CONCLUSION

GE Americom submits that adoption of the proposed fees cannot be justified on this record. The Commission must provide additional information to describe fully the accounting procedures it implemented and allow parties to

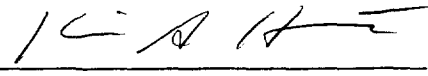
comment on those procedures before it takes any further action based on the cost information set forth here.

Respectfully submitted,

GE AMERICAN COMMUNICATIONS, INC.

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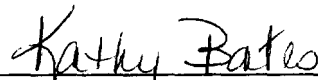
March 25, 1997

## **CERTIFICATE OF SERVICE**

I hereby certify that copies of the foregoing Comments of GE American Communications, Inc. were served by hand delivery this 25th day of March, 1997  
to:

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